

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 180

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:)
Investigation of Proposed Net Metering) JOINT MOTION FOR
Policy Changes) EVIDENTIARY HEARING

NOW COME Environmental Working Group, 350 Triangle, 350 Charlotte, the North Carolina Alliance to Protect Our People and the Places We Live, NC WARN, North Carolina Climate Solutions Coalition, and Sunrise Movement Durham Hub (collectively, “Joint Movants”), through undersigned counsel, pursuant to N.C. Gen. Stat. § 62-126.4, and jointly move the Commission to hold an evidentiary hearing in the above-mentioned docket concerning the Net Energy Metering (“NEM”) proposal of Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, the “Companies”). In support of this motion, Joint Movants show the following:

1. On July 27, 2017, North Carolina Governor Roy Cooper signed into law *An Act to Reform North Carolina’s Approach to Integration of Renewable Electricity Generation through Amendment of Laws Related to Energy Policy and to Enact the Distributed Resources Access Act*, commonly referred to as “House Bill 589.” Among other things, House Bill 589 requires the following of the Commission regarding NEM:

The rates shall be nondiscriminatory and established only after an investigation of the costs and benefits of customer-sited generation. The

Commission shall establish net metering rates under all tariff designs that ensure that the net metering retail customer pays its full fixed cost of service.

N.C. Gen. Stat. § 62-126.44(b) (emphasis added). Accordingly, it is mandatory that “an investigation of the costs and benefits of customer-sited generation” be conducted.

2. In reliance upon House Bill 589, the Companies filed in the present docket a Joint Petition for Approval of Revised Net Energy Metering Tariffs (the “Joint Petition”) on November 29, 2021.

3. The Companies allege that the statutorily mandated requirement of an “investigation” was fully satisfied by an internal marginal and embedded cost study and the Rate Design Study stakeholder process.

4. To the contrary, the Companies’ Joint Petition has not been the subject of a statutorily required “investigation.” For instance, a critical mass of intervenors into the present docket roundly reject the Companies’ argument that the Rate Design Study constitutes an investigation, including the following intervenors:

- The Attorney General’s Office (the “AGO”);¹
- 350 Triangle, 350 Charlotte, and the North Carolina Alliance to Protect Our People and the Places We Live (collectively, “350 Triangle *et al.*”);²

¹ The AGO’s Initial Comments, p. 1 (“The AGO believes that it would be prudent for the Commission to delay reaching a decision on these revised [NEM] rates until a **sufficient investigation** has been done regarding the costs and benefits of customer-sited generation—an investigation that may not be possible until later in the Carbon Plan process.” (emphasis added)).

² 350 Triangle *et al.*’s Initial Comments, p. 4.

- Sundance Power Systems, Inc., Southern Energy Management, Inc., and Yes Solar Solutions (collectively, the “Rooftop Installers”);³⁴
- the Environmental Working Group (“EWG”);⁵ and
- NC WARN.⁶

5. By way of example but not limitation, the Attorney General’s Office stated, “While the Comprehensive Rate Design Study investigated the costs of customer-sited generation, **it did not analyze potential benefits of customer-sited generation.**”⁷

6. As described in the comments filed in the above-referenced docket, including those comments referenced above, the statutorily mandated “investigation” has not been conducted.

7. In the present docket, there are several material issues of fact. By way of example but not limitation, Joint Movants believe that the following material issues of fact exist:

- Did the Companies’ embedded and marginal cost studies evaluate the benefits of customer-sited generation, or rooftop solar?

³ The Rooftop Installers’ Initial Comments, pp. 1-3.

⁴ Even after entering the Stipulation regarding a proposed “Bridge Rate” as a short-term measure, Rooftop Installers urged the Commission, “to work with all stakeholders to develop NEM rates **that fully reflect the value that customer-owned solar provides to Duke’s generation, transmission and distribution systems and the value of solar to North Carolina’s goal of reducing**” greenhouse gas emissions and attaining carbon neutrality. The Rooftop Installers’ Reply Comments, p. 2, May 20, 2022, (emphasis added).

⁵ EWG’s Initial Comments, pp. 8-11.

⁶ NC WARN’s Joint Sur-reply Comments, pp. 15-21.

⁷ The AGO’s Initial Comments, pp. 3-4 (emphasis added).

- Does the applicable standard of care require application of the National Energy Screening Project's *National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources* when evaluating the costs and benefits of rooftop solar?
- Did the Rate Design Study consider the benefits of customer-sited generation, particularly rooftop solar?
- Have the Companies proposed net metering rates for all tariff designs?
- Have the Companies proposed net metering tariffs that are nondiscriminatory?
- What impact would the Companies' NEM proposal have upon the value of rooftop solar systems in North Carolina?
- What impact would the Companies' NEM proposal have upon the rooftop solar industry in North Carolina?
- What impact would the Companies' NEM proposal have upon applicable carbon emission reduction goals in North Carolina?
- What impact would the Companies' NEM proposal have upon legacy customers?

8. As demonstrated, there are numerous disputes of fact concerning the Companies' NEM proposal. These crucial disagreements should not be resolved merely on a paper record. Instead, it is necessary to schedule an evidentiary hearing at which experts can appear and testify.

9. Moreover, the Companies filed a Stipulation proposing a short-term Bridge Rate on May 19, 2022, which was two (2) days before Reply Comments in

the above-referenced docket. Accordingly, the Joint Movants were not provided an opportunity to conduct discovery or thoroughly evaluate the proposed Bridge Rate. An evidentiary hearing would allow a meaningful evaluation of the proposed Bridge Rate.

10. The Stipulation filed by the Companies anticipates that the Commission may have questions that will need to be addressed in an evidentiary hearing.⁸

11. During the comments phase of this docket, Joint Movants argued that House Bill 589 requires that the Commission take lead on a Value of Solar Study or Cost Benefit Analysis of Customer Sited Generation.^{9, 10, 11} Joint Movants recommend that the evidentiary hearing be held after the Commission-led analysis of costs and benefits of customer sited solar is completed.

12. Intervenor Donald Oulman has reviewed the motion and indicated his support for an evidentiary hearing in the matter. Further, counsel for the Office of the Attorney General has indicated that they do not oppose the motion.

⁸ Stipulation, para. 21, [In any evidentiary hearing], if “questions are asked by any Commissioner, or if questions are asked or positions are taken by any person who it not a Stipulating Party, then any Stipulating Party may response to such questions by presenting testimony or exhibits and cross-examining any witness with respect to such testimony and exhibits.” NCUC, Docket No. E-100, Sub 180, May 19, 2022, at p. 7.

⁹ Joint Initial Comments of NC WARN, North Carolina Climate Solutions Coalition, and Sunrise Movement Durham Hub, NCUC, Docket No. E-100, Sub 180, March 29, 2022, at pp. 9-12.

¹⁰ Joint Initial Comments of 350 Triangle, 350 Charlotte, and the North Carolina Alliance to Protect our People and the Places We Live, NCUC, Docket No. E-100, Sub 180, March 29, 2022, at pp. 4-5.

¹¹ Initial Comments of EWG, NCUC, Docket No. E-100, Sub 180, March 29, 2022, at pp. 10-11, and 17.

WHEREFORE, Joint Movants respectfully request that the Commission enter an order providing for an evidentiary hearing on the discrete factual issues identified by Joint Movants, and any other dispute of fact to be identified by the Commission and setting such hearing after the conclusion of a Value of Solar Study or similar investigation of costs and benefits of customer sited generation. Respectfully submitted this 16th day of June, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon all counsel of record by email transmission.

This the 16th day of June, 2022.

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